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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,841	02/09/2004	Brian E. Farley	VNUS-66556	1651

24201 7590 07/13/2005

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EXAMINER

ROLLINS, ROSILAND STACIE

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,841

Applicant(s)

FARLEY ET AL.

Examiner

Rosiland S. Rollins

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

Claims 19-25 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 6689126. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 19 recites:

a method of applying energy from a power source to a hollow anatomical structure the method comprising the steps of (lines 1-3 of claim 1):

introducing into the hollow anatomical structure a catheter having a working end, and a plurality of leads disposed at the working end, each lead having a distal end, each lead being connected to the power source (lines 4-7 of claim 1),

blocking the hollow anatomical structure by expanding the circumference of the catheter adjacent the distal ends of the leads (lines 8-9 of claim);

expanding the leads outwardly from the working end of the catheter, wherein the distal ends of the leads move away from each other and into contact with the anatomical structure (lines 10-13 of claim 1);

applying energy to the anatomical structure from the distal end of the leads until the anatomical structure collapses (lines 14-16 of claim 1)

the only difference between application claim 19 and patent claim 1 is that claim 19 further defines the portion of the catheter that is expanded and claim 19 also requires that the anatomical structure collapse as opposed to being ligated as recited in application claim 1.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to expand that portion of the catheter adjacent the distal ends of the leads based on the location of the treatment site. Furthermore, based on Applicant's disclosure that a vein wall may completely collapse as the result of ligation it would have also been obvious to one of ordinary skill in the art at the time the invention was made that effective ligation of the anatomical structure would also include collapsing of the anatomical structure.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Laufer et al. (US 6139527) disclose a method of applying energy from a power source to a hollow anatomical structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rosiland S. Rollins whose telephone number is (571) 272-4772. The examiner can normally be reached on Mon.-Fri. 9:00 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Rosiland S Rollins
Primary Examiner
Art Unit 3739